IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY THIRD DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 11807 of 2004

Between:

Merry Nirmala Merry, W/o. M. Bala Showry,
R/o. Tallada Village, Khammam District.

..... PETITIONER

AND

The Regional Manager, A.P.S.R.T.C. Khammam District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of Writ of Mandamus declaring the action of the Respondent in not paying the gratuity amount by calculating the period with effect from 19-11-1993 to 16-2-2003 as wholly illegal, arbitrary, unjust and consequently direct the respondents to direct the respondent to pay the gratuity and other terminal benefits for the service rendered by the Petitioner's husband by treating the Petitioner's service as continuous with effect from 13-12-1982 to 16-2-2002 and pass

Counsel for the Petitioner: MR.G.RAVI MOHAN

Counsel for the Respondent: Smt. G.JYOTHIKIRAN.

The Court made the following:

–

–

–

–

ORDER:

The petitioner is the wife of an employee of the respondent Corporation, by name Bala Souri. The said Bala Souri died on 11.06.2003. He retired from service on 16.02.2002. In pursuance of a disciplinary action, he was removed from service on 19.12.1993. Aggrieved by the termination orders, the deceased employee raised an Industrial Dispute through I.D.No.15 of 1997 before the Industrial Tribunal, Warangal. The Industrial Tribunal passed an award on 26.11.1998, directing the respondent to reinstate the deceased as a fresh driver, and he was reinstated into service with effect from 06.04.1999. The deceased employee filed a writ petition covered by W.P.No.12931 of 1999, being aggrieved by the denial of the continuity of service and back wages, and this Court allowed the said writ petition in part through its order dated 07.12.1999 with the following observation:

> "Under the above circumstances the order of the Labour Court is modified directing the respondent to reinstate with continuity of service. The continuity of service should be only for the purpose of computing the terminal benefits and not for any other purpose.
>
> The writ petition is disposed of accordingly."

2. The petitioner contends that as per the orders passed by this Court in the above writ petition, and on account of the death of her late husband, she is entitled for the gratuity and other terminal benefits for the service rendered by her late husband during the period from 13.12.1980 to 16.02.2002, but the respondent did not pay the terminal benefits.

3. The learned counsel for the petitioner submitted that the petitioner was paid the terminal benefits without computing the period from the date of termination of her late husband till the date of his retirement i.e. from 19.11.1993 to

16.02.2002. Therefore, the petitioner made a representation to the respondent, but no orders were passed by the respondent in this regard.

4. The petitioner, therefore, approached this Court, seeking a direction to the respondent to release the difference of terminal benefits of her husband, after considering the period from 19.11.1993 to 16.02.2002.

5. The order of this Court in W.P.No.12931 of 1999 clearly indicates that the deceased employee was entitled for continuity of service for the purpose of computing the terminal benefits. The respondent is, therefore, expected to compute the terminal benefits by taking into consideration the period from 19.11.1993 to 16.02.2002, if it is not already considered in computing the terminal benefits.

6. In the light of the above circumstances, the respondent is directed to compute the terminal benefits of the deceased employee Bala Souri once again, by treating the period from the date of his termination till the date of his reinstatement, as continuity of service, for the purpose of terminal benefits, according to Rules, and pass appropriate orders within a period of two months from the date of receipt of a copy of this order, and communicate the same to the petitioner.

7. The Writ Petition is, accordingly, disposed of. No order as to costs.

dsr/svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To:

1. The Regional Manager,

APSRTC, Khammam Region,

Khammam District

2. Two CD copies.